

#### REMARKS

In view of the rejection, Applicants have amended the claims to indicate that the process of the present invention operates on an aqueous mixture comprising preformed alkyl oligoglycoside carboxylic acid salts and alkenyl oligoglycoside carboxylic acid salts, water and residual halocarbons. The process reduces the content of residual halocarbons in the reaction mixture.

Applicants respectfully request that the amendments be entered in the claims since they place the application in condition for allowance or substantially reduce the issues for appeal.

The amendments to the claims were made necessary by the Examiner's assertion that the process of the present invention is the same as the process disclosed in DE 10122255 C1. Applicants respectfully submit that the claims before the proposed amendment were sufficient to distinguish the process of the present invention from the process disclosed in DE 10122255. It is clear that the processes are not the same. As written before the proposed amendment, claim 11 was directed to a process for preparation of water containing composition with a reduced residual content of halo carbon compounds. The process comprises heating an aqueous mixture comprising a member selected from the group consisting of alkenyl oligoglycoside carboxylic acid salts, and alkenyl oligoglycoside carboxylic acid salts, water and residual halocarbon compounds at a pH of from 10 to 14 and a temperature of from 50° to 120°C, whereby a mixture with a reduced content of halocarbon compounds is formed.

Claim 11 before amendment clearly indicated that heating a preformed mixture containing the oligoglycoside carboxylic acid salts and an alkenyl oligoglycoside carboxylic acid salts, water and residual halocarbon compounds at a pH of from 10 to 14 and a temperature of from 50° to 120°C, produced a mixture with a reduced content of halocarbon compounds. The teaching that the halocarbon compounds were residual halocarbon compounds (claim 1, line 4) clearly indicates that the mixture was not the mixture before or during the reaction. The term residual means residue or the amount remaining at the end of a process.

Applicants have amended claim 11 to indicate that the aqueous mixture comprises preformed alkyl oligoglycoside carboxylic acid salts and alkenyl oligoglycoside carboxylic acid salts and residual halocarbon compounds which mixture is heated at a pH of from 10 to 14 whereby a mixture with a reduced content of residual halocarbon compounds is formed. The amendment to the claim clearly teaches that the process of claim 11 is not directed to the reaction of an alkyl oligoglycoside with an  $\omega$ -halocarboxylic acid. Before the amendment, Applicants submit that nowhere in the claim is there a teaching or suggestion of reacting an oligoglycoside with the  $\omega$ -halocarboxylic acid to form an alkyl oligoglycoside carboxylic acid salt. This can be seen from claim 12 which discloses a first step of carrying out the reaction between an oligoglycoside and a halocarboxylic acid or halocarboxylic acid salts. As set out in claim 12, the reaction mixture formed in step (1) containing residual halocarbon

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compound is heated at a pH of 10 to 14 to form a reaction mixture with reduced content of halocarbons.

Claims 11-30 stand rejected under 35 USC 102(b) as anticipated by or, in the alternative, under 35 USC 103(a) as obvious over Behler et al. (DE 10122255).

Applicants respectfully submit that Behler et al. neither teaches nor suggests the present invention.

Behler et al. is directed to a process for the production of surfactant mixtures containing alkyl and/or alkenyl oligoglycoside ether carboxylic acid or salts, characterized in that an aqueous solution of at least one alkyl and/or alkenyl oligoglycoside is reacted with a  $\omega$ -halocarboxylic acid, salt or ester in the presence of alkali. None of the steps appears in claim 11 of the application before the amendment or in the amended claims. Claim 12 contains a step in which the oligoglycosides are reacted with the  $\omega$ -halocarboxylic acid but then further treats the reaction mixture at a pH from 10 to 14 to form a treated reaction mixture with a reduced content of halocarbon compounds. It is clear from claim 12 which is dependent upon claim 11, that the halocarbon components in the reaction mixture from step (1) must contain residual halocarbon compounds. The content of the halocarbon compounds is reduced in step (2) of claim 12 of the process of the present invention.

Applicants respectfully submit that Behler et al. would neither teach nor suggest the present invention.

The amendment to the claims clarify that the aqueous mixture containing the residual hydrocarbon compound contains the oligoglycoside carboxylic acid salts which have been formed. This can be the only interpretation of the claims since there is no step for reacting the oligoglycoside with the  $\omega$ -halocarboxylic acid in claim 11.

To be a reference on which a rejection under 35 USC 102(b) can be based, the reference must disclose each and every limitation in the claims. Clearly, Behler et al. fails as a reference on which a rejection under 35 USC 102(b) can be based in that the present invention is a method for purification of the reaction mixture of Behler et al. and not a process for reacting an oligoglycoside with an  $\omega$ -halocarboxylic acid. Applicants submit that the present invention is directed to reaction of residual halocarbons in a reaction mixture with alkali metal salt at a pH in the range of 10 to 14 to destroy the residual halocarbon compounds in the reaction mixture. Applicants therefore respectfully submit that the process of the present invention is neither taught nor suggested by Behler et al. Behler et al. is completely silent concerning heating the reaction mixture at 50°C to 120°C at a pH of 10-14 to reduce residual halocarbon content.

Applicants respectfully submit that Behler et al. could be directed to the step (I) of claim 12. However, Behler et al. is completely silent concerning step (2) of claim 12 or the process of claim 1. Applicants therefore respectfully submit that the rejection of the claims under 35 USC 102(b) is untenable and Applicants request that the rejection be reconsidered and withdrawn.

The claims 11-30 in the present application are not obvious over the teachings of Behler et al. Behler et al. is completely silent concerning any residual halocarbon compounds in the reaction mixture or any method by which they could be easily removed. Applicants respectfully submit that Behler et al. neither teaches nor suggests heating the reaction mixture at a temperature of from 50 to 120°C at a pH in the range of 10 to 14. In fact, Behler et al. is completely silent concerning the pH range of the reaction mixture of the process. As shown in the examples, the mol ratio of sodium hydroxide to sodium chloroacetate is 1:1 in each example. This would mean that substantially all of the chlorine in the sodium chloroacetate would have been reacted with the sodium hydroxide to provide a mixture with a pH in the range substantially below 10 to 14. The pH range of the reaction mixture of Behler et al. must not be important since it is not mentioned in the specification.

At paragraph [0013] of Behler et al., the specification teaches that the surfactant mixture according to the invention may be used in surface-active preparations such as, for example, laundry and dishwashing detergents, household cleaners and cosmetic and/or pharmaceutical preparations. Applicants respectfully submit that for these uses, one skilled in the art would not utilize a reaction mixture with a pH in the range of 10 to 14. Applicants therefore respectfully submit that Behler et al. neither teaches nor suggest the present invention.

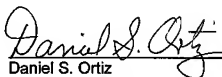
Claims 11-30 stand rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 12-22 of copending Application No.

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10/476,593 (now issued as U.S. 7,241,875). Applicants respectfully submit that the claims in U.S. 7,241,785 are patentably distinct from the claims in the present application. As stated previously, the claims of U.S. 7,241,875 could be utilized as the first step in claim 12. However, there is neither teaching nor suggestion of step (2) of claim 12 or the method for reducing the amount of residual halocarbons in the reaction mixture of claim 11. Applicants therefore respectfully submit that the claims in the present application are patentably distinct from the claims in U.S. 7,241,875.

In view of the amendments entered in the claims or the unamended claims and the above discussion, Applicants respectfully submit that the application is in condition for allowance and favorable consideration is requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Daniel S. Ortiz", is written over a horizontal line.

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